

CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Agreement to Provide Engineering Services for the Design of 230/60kV Interconnect Substation and Associated Transmission Facilities Phase III (\$525,054)

MEETING DATE: January 21, 1998

SUBMITTED BY: Electric Utility Director

RECOMMENDED ACTION: That the City Council authorize the City Manager to execute a professional services contract with Power Engineers, Inc. (Power) for the project design of the 230/60kV Interconnect Substation and associated transmission facilities.

BACKGROUND: On January 5, 1998, the Preliminary Engineering Report for the 230kV Interconnection Project was completed by Power Engineers, Inc. This report provides the foundation of practical alternatives to proceed with of the engineering design Phase III. Many of the alternatives presented in the report will be further studied and decided upon during the design stage (ie, 60kV line routing around White Slough Water Pollution Control Facility, exact substation site of the south location).

In addition, the Preliminary Engineering work provided the information required for the initial study under the California Environmental Quality Act (CEQA) necessary to determine the level of environmental permitting required for this project.

Copies of the 230kV Interconnection Project Preliminary Engineering Report and Power Engineers' Engineering Design Proposal dated January 7, 1998, are available for review at the office of the City Clerk. Note that included with the proposal are detailed schedules, budget information and work plans.

As outlined in Power's proposal dated January 7, 1998, the engineering services activity includes the first 20 specified tasks totaling \$525,054.00. The City will be billed for work performed on a monthly basis.

FUNDING: \$525,054.00 was appropriated for this project in the NCPA Multiple Capital Facilities - Lodi Project financing. Funds are being held at NCPA.

Prepared by: Mel Grandi, Manager Electric Services


ANV/MG/lst

c: City Attorney



Alan N. Vallow
Electric Utility Director

Approved _____



H. Dixon Flynn
City Manager

POWER ENGINEERS, INC.

AN AGREEMENT FOR THE PROVISION OF LIMITED PROFESSIONAL SERVICES

CLIENT: CITY OF LODI - ELECTRIC UTILITY DEPARTMENT

PROJECT NUMBER: 120568-01

Project Name/Location: Lodi Interconnection Project - Lodi, California

Services to be performed by Engineer:
Perform engineering, design and support services as provided for in
POWER Engineers, Inc. proposal dated January 7, 1998 (Tasks 0
through 20, inclusive).

Compensation: Not-to-Exceed Amount of \$525,054.00 as provided for in POWER
Engineers, Inc. proposal dated January 7, 1998 (Tasks 0 through 20,
inclusive).

Retainer Amount: Not Applicable

Special Conditions: The Proposal dated January 7, 1998 is a part of this Agreement.

The terms and conditions attached are a part of this Agreement.

Prepared by:

John McGrew 1-9-98
(Signature) (Date)

John McGrew Project Manager
(Printed name) (Title)

POWER Engineers, Inc.

Accepted by:

H. D. Dixon
(Signature) H. DIXON FLYNN (Date)

H. D. FLYNN
(Printed Name) (Title)

City of Lodi, California

ATTEST:

ALICE M. REIMCHE, CITY CLERK

APPROVED AS TO FORM:

Randall A. Hays

RANDALL A HAYS, CITY ATTORNEY

TERMS AND CONDITIONS

POWER Engineers, Inc. (hereinafter POWER) shall perform the services outlined in this Agreement for the stated compensation.

ACCESS TO SITE:

Unless otherwise stated, POWER will have access to the site for activities necessary for the performance of the services. POWER will take precautions to minimize damage due to these activities, but have not included in the fee the cost of restoration of any resulting damage.

SITE OBSERVATION:

If required within the scope of POWER's services, POWER shall make visits to the site at intervals appropriate to the various stages of construction as POWER deems necessary in order to observe the progress of Contractor(s)' work. POWER shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work nor shall POWER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, POWER can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

It is understood and agreed that POWER has no constructive use of Owner's site; has no control or authority over the means, methods, and sequences of construction, and therefore has no ongoing responsibility whatsoever for construction site safety, a responsibility that has been wholly vested in the general contractor.

COMPENSATION:

The total compensation, if stated, shall be understood to be an estimate, and shall not be exceeded by more than ten percent (10%) without written approval of the Client. Where compensation is to be on an hourly basis, the rates shall be those that prevail at the time services rendered, 1998 rates are attached.

Any taxes, fees, or assessments enacted by local, state or federal government subsequent to the date of this Agreement, and based on gross receipts or revenues will be added to amounts due under this Agreement in accordance with such fees, assessments or taxes.

BILLINGS/PAYMENTS:

Invoices for POWER's services shall be submitted on a monthly basis. Invoices shall be payable within thirty (30) days after the invoice date. If the invoice is not paid within thirty (30) days, POWER may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of the service.

LATE PAYMENTS:

If Client objects to all or any portion of an invoice, Client shall notify POWER within seven (7) calendar days of invoice date, identify cause of disagreement, and pay when due, that portion of the invoice not in dispute. All outstanding balances will accrue a finance charge of one and one-half percent (1.5%) per month for each month the invoice is outstanding.

STANDARD OF CARE:

POWER represents that it will perform its services in accordance with generally accepted professional practices existing at the time of performance for the locality where the services are performed. NO OTHER WARRANTY, EXPRESS OR IMPLIED, IS MADE OR INTENDED BY THE RENDERING OF THE SERVICES PROVIDED.

INDEMNIFICATION:

POWER agrees, to the fullest extent permitted by law, to indemnify and hold the Client harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by POWER's negligent acts, errors or omissions in the performance of professional services under this Agreement and those of his or her subconsultants or anyone for whom POWER is legally liable. POWER is not obligated to indemnify the Client in any manner whatsoever for the Client's own negligence.

Client agrees, to the fullest extent permitted by law, to indemnify and hold POWER harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by Client's negligent acts, errors or omissions and those of his or her contractors, subcontractors or consultants or anyone for whom the Client is legally liable, and arising from the project that is the subject of this Agreement.

RISK ALLOCATION:

Client agrees to limit POWER's liability to Client arising from POWER's professional acts, errors, or omissions, negligence, strict liability, breach of contract or breach of warranty such that the total aggregate liability of POWER shall not exceed POWER's pro rata share of liability or POWER's insurance limits as \$1,000,000.00, **WHICHEVER IS LESS.**

TERMINATION OF SERVICES:

This Agreement may be terminated by the Client or POWER should the other fail to perform its obligations hereunder. In the event of termination Client shall pay POWER for all services rendered to the date of termination, all expenses, and all termination expenses.

OWNERSHIP AND REUSE OF DOCUMENTS:

Except as otherwise provided herein, engineering documents, drawings and specifications prepared by POWER as part of the Services shall become the property of Client upon completion of work and payment in full of all monies due to POWER; provided, however, that POWER shall retain the unrestricted rights to their use and shall retain all common law, statutory, copyright, and other reserved rights.

The Client shall not reuse or make any modification to any and all documents prepared by POWER, including, but not limited to, engineering documents, drawings, and specifications (the "documents") without the prior written authorization of POWER. The Client agrees, to the fullest extent permitted by law, to indemnify and hold POWER harmless from any claim, liability or cost (including reasonable attorneys' fees and defense costs) arising or allegedly arising out of any unauthorized reuse or modification

of the documents by the Client or any person or entity that acquires or obtains the documents from or through the Client without the written authorization of POWER.

Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the project is not to be construed as publication in derogation of POWER's reserved rights.

SUCCESSORS AND ASSIGNS:

Client and POWER each binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all covenants, agreements, and obligations of this Agreement. This Agreement shall not be assigned by either party without the other party's express written consent. Provided, POWER shall be entitled to subcontract portions of its work to other companies in which POWER has an ownership interest without first obtaining the written consent provided for under this Article.

EEO COMPLIANCE:

POWER and Client expressly agree not to discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or disability and shall during the performance of this Agreement comply with all applicable Executive Orders and federal regulations.

MEDIATION:

All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement, which cannot be first settled through direct discussions, shall be submitted to mediation under the Commercial Mediation Rules of the American Arbitration Association. Client and POWER agree to share the costs for such mediation services on an equal basis. Nothing contained in this paragraph shall preclude the parties to this Agreement from pursuing other means of dispute resolution either concurrently or subsequent to the mediation process. In the event any dispute is resolved by court order, then the prevailing party shall be entitled to its attorney's fees and all related costs, as ordered by the court, including costs and attorney's fees incurred on appeal.

APPLICABLE LAWS:

This agreement shall be governed by the laws of the State of Idaho.

RESOLUTION NO. 98-15

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING
AGREEMENT WITH POWER ENGINEERS, INC. TO PROVIDE
ENGINEERING SERVICES FOR THE DESIGN OF 230/60kV
INTERCONNECT SUBSTATION AND ASSOCIATED TRANSMISSION
FACILITIES PHASE III

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BE IT RESOLVED, that the Lodi City Council does hereby approve the Agreement with Power Engineers, Inc., to provide engineering services for the design of 230/60kV Interconnect Substation and Associated Transmission Facilities Phase III; and

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized and directed to execute the Agreement on behalf of the City of Lodi.

Dated: January 21, 1998

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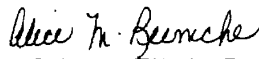
I hereby certify that Resolution No. 98-15 was passed and adopted by the City Council of the City of Lodi in a regular meeting held January 21, 1998 by the following vote:

AYES: Council Members – Land, Mann, Warner and Sieglock (Mayor)

NOES: Council Members - None

ABSENT: Council Members - None

ABSTAIN: Council Members - Pennino


ALICE M. REIMCHE
City Clerk